Refutation of Minority Jurisprudence

and Its Dangers to Muslim Minorities

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Methodological Introduction: The Dangers of Minority Jurisprudence and the Breakdown of Usulī Discipline:

- **A brief overview of the concept of "Minority Jurisprudence."**
- **Affirmation that this study does not target the realities of minority life or the need for ease but rather critiques a methodology that has bypassed scriptural revelation in favor of rationalistic reasoning.**
- **A clarification of the difference between *shar'ī* (scripturally grounded) necessity and *'aqlī* (rational/social) necessity.**
- **A presentation of the conditions for valid unrestricted *maṣlaḥah* (public interest) in usul al-fiqh, and a critique of how these conditions have been transgressed.**

Minority Jurisprudence Between Shar'ī Necessity and Methodological Compromise

At the close of the twentieth century—coinciding with the growing presence of Muslim communities in Western societies—there emerged a pressing call to develop what came to be known as *"Fiqh al-Aqalliyyāt"* (Minority Jurisprudence): a legal-theoretical endeavor aiming to adapt Islamic rulings to the context of Muslims living in non-Islamic societies. Undoubtedly, the circumstances of Muslim minorities pose distinct legal challenges, ranging from engagement with secular legal systems to complex matters of personal status such as marriage, legal arbitration, dietary laws, financial transactions, and insurance.

Yet the practical implementation of this trend revealed a deep schism in methodological orientation:

- On one side, sincere scholars strove to contain concessions and legal dispensations within a strict usulī (principled) framework, without infringing upon the fixed and categorical rulings of the religion.
- On the other side, fatwas were issued by individuals who can only be described as *pseudo-jurists*—those who expanded the meanings of *maslaha* (public interest), *maqāṣid* (legal objectives), and *"avoiding the greater of two harms"* in an unrestrained and unprincipled manner. They wielded these tools to override even the most firmly established legal rulings using the flimsiest of justifications.

This schism widened to the point of rupture. Under the banners of *ease* and *realism*, alien ideas took root—ideas that elevated purely rational, subjective interests (devoid of any grounding in revelation) to the level of legislative authority. The desired outcome became the driver of the legal process itself. Thus was born a "jurisprudence" tailored to justify relaxation in categorical rulings (such as those regarding marriage, usury, or legal arbitration) under the pretense of accommodating minority conditions. This was done by reducing the comprehensive system of the Sharia to a reactive framework for managing Western reality—an effort to align Islamic rulings with Western legal norms and integrate Muslim minorities into Western societies, even if that required reshaping the Sharia itself to fit this purpose.

Accordingly, this study critically examines the fundamental contradiction between many of the fatwas issued under the umbrella of Minority Jurisprudence and the categorical scriptural evidences. It exposes:

1. The mechanisms through which methodical compromises are introduced in matters of marriage, financial transactions, and engagement with secular legal systems.
2. The transformation of *maslaha* from a well-regulated Shar'ī principle into a purely rational justification used to abrogate fixed rulings.
3. The actors, institutions, and model fatwas that embodied this deviation—turning social integration and Western social pressure into de facto abrogators of revelation.

Thus, this study is driven by a central question:

How did "rational interest"—in some expressions of Minority Jurisprudence—become a tool for dismantling established Shar'ī principles, rather than a framework for applying them within complex realities?

From Usulī Discipline to Methodological Disintegration

One of the defining features of the Islamic discipline of *usul al-fiqh* (principles of jurisprudence) is its rigor and rootedness in revelation. It is a science governed by structured methodologies of reasoning and inference, built on systematic principles derived through inductive analysis (*istiqrā'*), analogical reasoning (*qiyās*), and interpretive rigor, all framed by sacred sources. Over centuries, these foundations were refined and codified to ensure that the process of legal derivation remains disciplined, objective, and firmly anchored in revealed guidance—not in personal whims or unbounded rational speculation.

Usul al-fiqh is not a set of abstract tools—it is a coherent, integrated system of principles, measures, and methods designed to safeguard the integrity of *ijtihād* (independent legal reasoning). It ensures that the outcomes of legal reasoning align with the overarching structure of revelation, Islamic theology, and legal order. It revolves around immutable parameters, such as grounding all rulings in revelation, forbidding any purely rational legislation, and engaging with scriptural evidence in a methodologically sound way that ties rulings to the specific realities they are meant to govern. These parameters ensure that *ijtihād* operates in a way that fulfills its purpose.

Thus, every school of Islamic law was not merely a collection of scattered fatwas, nor were its principles arbitrary or eclectic. Each school was a structured intellectual tradition with a coherent usulī methodology. Its rulings reflected its interpretive principles and its system for engaging with texts, ordering evidences, and determining legal precedence.

Islamic epistemology—as explained in the book *"Epistemology and Methodologies of Thinking"*—was established on the foundational principle of *epistemic discipline*. From the dawn of Islam, reason was mandated by revelation not as a means to undermine or select from texts, but to understand and apply them within strict methodological boundaries. Therefore, one of the most alarming developments in modern legal discourse is the emergence of "Minority Jurisprudence" in some of its expressions, as a blatant example of the collapse of usulī discipline and the abandonment of the very principles that safeguard valid legal reasoning.

True Islamic jurisprudence—built upon usul al-fiqh—relies on authoritative sources: the Qur'an, the Sunnah, consensus (*ijmāʿ*), and analogy (*qiyās*), as well as overarching juristic maxims (*qawāʿid kulliyyah*) that guide derivation. Within this framework exists the concept of *maṣlaḥa mursala* (unrestricted public interest), which is only valid under strict conditions:

1. It must be real, not imaginary.
2. It must be general, not particular.
3. It must be consistent with the Sharīʿah—not contradicting any definitive text, consensus, or established principle.
4. Its validity must be supported by detailed scriptural evidence.

The primary problem with most applications of "Minority Jurisprudence" is that it substitutes this disciplined Shar'ī concept of public interest with a purely rationalistic and circumstantial construct—one that is drawn from Western social realities and pressures, with no binding link to scriptural sources or to the established methodologies of derivation in usul al-fiqh. The result has been deeply troubling methodological concessions.

Manifestations of Methodological Breakdown in Minority Jurisprudence

1. **Abandonment of the Conditions for Shar'ī Maslaha**

Scholars such as al-Ghazālī and al-Shāṭibī delineated strict conditions for recognizing public interest as a legitimate basis for legal rulings: it must be real, general, scripturally validated, and not in conflict with definitive texts. They warned against basing legislation on mere whims. In contrast, some applications of Minority Jurisprudence disregard these conditions and elevate pragmatic, worldly considerations—unsupported by detailed evidence—to the level of legislative principles. These are often shaped by temporary circumstances or political and social pressures.

2. **Fragmentary Borrowing from Madhhabs Without Respect for Foundational Methodologies**

As emphasized in *The Miracle of Islamic Legislation*, the danger of picking and choosing between legal schools lies in the fact that every individual ruling is rooted in an integrated usulī framework. For example, if one adopts Imam al-Shāfiʿī's view that touching a woman nullifies wudu (ritual ablution), and then adopts Abū Ḥanīfah's opinion that excessive movement invalidates prayer, one is combining fundamentally incompatible premises. This dismantles the usulī foundation upon which both rulings rest. Each school has a distinct methodology for engaging with evidence, and mixing these leads to methodological collapse and a subjective, desire-driven approach to lawmaking. Usulī coherence must always be maintained.

3. **Abandoning Ijtihad for Patchwork and Selective Quoting**

Authentic *ijtihād* does not consist of cherry-picking isolated fatwas from old juristic texts without accounting for the context in which they were issued or the usulī principles underpinning them. Yet some figures issuing fatwas under the banner of Minority Jurisprudence invoke anomalous opinions found in obscure legal texts without possessing the intellectual tools of *ijtihād* or undertaking a systematic usulī study of the issue in question.

An example: In his memoir *"Political Memoirs"* (p. 299, Egyptian General Book Organization, 1985), Muḥammad ʿAlī ʿUlūbah (former Egyptian Minister of Justice) recounts that Shaykh al-Marāghī (Grand Shaykh of al-Azhar 1928–1930 and 1935–1945) once told lawmakers, *"Bring me the Western law you wish to implement, and I will tell you which fiqh school supports it."*

- **Historical context**: This occurred during the British occupation of Egypt, when lawmakers imported Western codes (especially French civil law).
- **al-Marāghī's aim**: He sought to reduce dependence on the West by providing nominal Islamic justification for these laws by:
    - Finding superficial resemblances between them and minority fiqh opinions.
    - Relying on the maxim: *"Legal rulings change with changing times."*
- **Scholarly critique**: Scholars like al-Ṭāhir ibn ʿĀshūr in *"Maqāṣid al-Sharīʿa"* (p. 367) described this as a "patchwork method" that begins with the secular law and then seeks a fiqh-based rationale for it. Ibn ʿĀshūr stated: *"It is not valid to make reality the foundation and then subject the texts to it; rather, the texts are the foundation."*

4. **Using Maqāṣid as a Pretext for Overriding Texts**

The concept of *maqāṣid* (legal objectives) has been distorted from its role as a tool for understanding texts into a license for abandoning them. It is now invoked to justify ignoring categorical rulings, under the guise of serving "interests" or alleviating "hardship," despite the consensus of usul scholars that maqāṣid may only be invoked in the absence of textual evidence—and never to contradict it.

5. **Deviation in Applying Necessity and Hardship**

Minority Jurisprudence has expanded the concept of *ḍarūrah* (necessity) beyond recognition. Even a *doubtful necessity* is now used to justify the permissibility of usury, the uncovering of private parts, or

abandoning *walāʾ and barāʾ* (allegiance and disavowal). This represents a dangerous departure from the stringent criteria established in usul al-fiqh: that necessity must be real, certain, temporary, irremediable by other means, and strictly limited in scope.

Conclusion

The practice of "Minority Jurisprudence"—as undertaken by certain actors—reveals a deep methodological crisis. It entails dismantling the usulī architecture that governs *ijtihād* and replacing it with circumstantial rationalism that ultimately undermines the immutable foundations of the faith. True renewal in fiqh does not require demolishing its principles, but rather reactivating them with awareness—reading contemporary realities through the lens of the revealed texts, not reshaping the texts to conform to reality.

Practical Examples That Demonstrate the Danger of Building Upon Minority Jurisprudence

First Case Study: The Fatwa Permitting Interest-Based Loans to Purchase Homes or Cars

In the 1990s, several prominent fatwa-issuing bodies—such as the European Council for Fatwa and Research (ECFR), Dr. Yusuf al-Qaradawi, and the Fiqh Council of North America (FCNA) in 1999, among others—issued rulings permitting Muslims living in the West to take out interest-bearing loans to purchase homes. The justification was framed around necessity, civil integration, and public interest (maslahah), especially in light of high rental costs and the desire to avoid long-term financial harm. They invoked the concept of *"removing severe hardship."*

Official Position (Resolution 15/5, 2001):

"It is permissible for a Muslim residing in the West to take out an interest-based loan to purchase a home if the following conditions are met: (a) No Shar'i-compliant alternative is available. (b) The individual fears moral or religious harm to themselves or their family due to lack of homeownership. (c) The housing need is deemed a necessity, not a luxury." *(Source: ECFR Journal, Issue 8, p. 183)*

Contradiction with Sharia Evidences:

- Qur'an: "Allah has permitted trade and forbidden usury (riba)." (Al-Baqarah 2:275)
- Hadith: "Allah has cursed the one who consumes riba, the one who pays it..." *(Sahih Muslim)*

Dr. Yusuf al-Qaradawi argued in his book *Fiqh al-Aqalliyyat al-Muslima*:

"Necessity permits the forbidden. The inability to own a home in the West can lead to family disintegration and deviation of children, which constitutes a necessity permitting the use of riba under strict conditions."

ISNA's 2009 Conference:

“It is permissible for Muslims in America to take out riba-based loans for housing or cars when no alternative exists, as need is treated as necessity.”

How Did "Rational Interest" Become a Mechanism to Nullify a Categorical Prohibition?

Methodological Mechanism:

1. **Expanding the Concept of "Necessity":**
    - Shar‘i Necessity: Defined in jurisprudence as a condition where one's life, religion, intellect, or basic well-being is at risk unless the prohibited act is committed. The permissibility is limited and only extends to the extent of removing the harm.
    - Minority fatwas expanded this to include social or moral fears like "fear of deviation" or "difficulty paying rent," despite the fact that banks only approve loans for financially capable individuals. Thus, if one qualifies for a loan, they are by definition not in true need.
    - Furthermore, many Islamic financing alternatives were already available in Europe and North America prior to these fatwas. This raises the question: were these fatwas truly about necessity, or were they consumerist cover for facilitating access to interest-based contracts?
2. **Timeline Comparison: Emergence of Islamic Housing Finance vs. Interest-Based Fatwas**

A. Fatwas Permitting Interest-Based Loans:

- **1998–1999:** FCNA fatwa permitted taking out interest-bearing mortgages for first homes, citing lack of alternatives and necessity.
- **2001:** ECFR followed suit with a similar fatwa invoking "compelling necessity."

B. Availability of Islamic Financing Alternatives:

North America:

Year	Entity	Program	Description
1987	LARIBA (California)	Diminishing partnership	First model, limited scope
1997	IFSB (Oversight)	Home financing	Regulatory groundwork
2002	Guidance Residential	Musharakah Mutanaqisah	Covered 40 U.S. states by 2005
2003	UM Financial (Canada)	Murabaha & Ijarah	Focused on Canadian market

Europe:

Year	Entity	Country	Description
2004	Islamic Bank of Britain	UK	First Islamic mortgage provider in Europe
2006	Kuwait Finance House	UK	Entered market via subsidiary
2008	Qatar Investment	France	Launched Dar Al Tamweel

Contradiction in Applying "Necessity" Post-2005:

- **FCNA** continued permitting interest-based mortgages in underserved areas even after Islamic alternatives became widespread.
- **Islamic Bank of Britain** and other providers outright rejected riba-based options due to availability of alternatives.

Key Data on the Availability of Alternatives:

- By 2007, the UK Islamic mortgage market reached $1.5 billion (Bank of England).
- Guidance Residential in the U.S. financed over $7 billion from 2002–2010.

Conclusion: Institutionalizing Necessity as a Permanent License

1. The gap between 1998 and 2002 allowed riba-fatwas to become entrenched.
2. Fatwa-issuing bodies like FCNA did not revoke or substantially update their rulings even after practical alternatives became available.
3. Paradox: Islamic alternatives existed as early as 1987, preceding permissive fatwas. The proliferation of alternatives from 2002 onward undermines the validity of continuing such fatwas.

Field Data (2005–2010):

- Guidance Residential had 15 physical branches and digital reach to 90% of U.S. urban areas by 2005.
- Islamic Bank of Britain covered the UK via 8 branches and online platforms.
- Only 5% of U.S. Muslims lived in rural "underserved" areas, according to Pew (2009). Remote access (mail, e-signatures, legal proxies) was available for them.

Continued Reliance on Riba Despite Alternatives:

Survey Data:

Source	Year	Result
Zogby International	2010	70% of American Muslims bought homes with riba; 62% cited FCNA fatwa

George Washington Univ.	2017	64% admitted using riba; 48% said fatwas eased their conscience
U.S. Fed. Reserve	2020	58% of Muslim mortgages were riba-based; 76% in areas with alternatives
ECFR Report	2022	41% of Western European Muslims used riba loans; 33% cited "necessity" fatwas

Longitudinal Trends in the U.S.:

Period	Riba Usage	Islamic Alternatives
1999–2005	82%	4%
2006–2010	74%	18%
2011–2015	63%	29%
2016–2023	51%	42%

Motivations Behind Continued Riba Use (Hartford Institute, 2021):

Reason	%	Interview Examples
Trust in Fatwa Institutions	39%	“If FCNA permits it, they know best.” (Michigan)
Exaggerated Difficulty	28%	“Islamic financing is too complex.” (Avg. time: 18 days)
Cultural Conformism	19%	“Everyone here does it.” (Paris)
Ignorance of Alternatives	14%	“Never heard of Islamic finance.”

Blatant Contradictions:

- **UK (2023):** Despite 100% coverage of Islamic mortgage services, 38% of British Muslims still use riba.
- **Dr. Muhammad al-Hassan al-Deddo**: “Fatwas of permissibility created a religious cover... 60% of riba users are not in real necessity.” *(Islamic Finance Conference, Paris 2013)*

Effect of Fatwa Revisions (Canada Case Study):

- **Pre-2015:** Riba usage at 71% (despite alternatives since 2003).
- **Post-2016:** Canadian Islamic Council revoked its permissive fatwa:
    - Riba usage dropped to 34% in 5 years.

- Islamic financing transactions rose 300%.

Summary: What the Data Prove

1. Fatwas of permissibility created enduring religious cover even after their justification expired.
2. These fatwas delayed the adoption of alternatives by at least a decade.
3. They transformed the principle of necessity into a permanent license in the minds of many Muslims.

Shaykh Abdullah bin Bayyah (ECFR President): "A necessity fatwa is time-bound and expires when its justification disappears. That justification has vanished with the emergence of Islamic financing." *(Paris, 2013)*

Yet in 2017, the Union of Islamic Organizations in France published a booklet justifying interest-based mortgages—a textbook case of premeditated deviation.

Second Case Study: Altering the Rulings of Zakat

Issued Fatwa: It is permissible to give zakat funds to Western governments (for public projects) instead of giving them directly to poor Muslims.

Source: European Council for Fatwa and Research (ECFR), Decision 12/2003:

"Zakat may be allocated to social services (schools, hospitals) funded by Western states that benefit Muslims, as an alternative to direct distribution to the poor."

Contradiction with Shar'ī Texts:

- Qur'an: "Indeed, zakat is only for the poor and the needy..." (Al-Tawbah 9:60)
- Scholarly Consensus: Zakat is restricted to the eight categories mentioned in the verse. *(Ibn al-Mundhir, Al-Ijmāʿ, p. 51)*

Mechanism of Distortion: Turning a "rational interest" (improving the image of Muslims) into a "necessity" to justify altering the legally designated recipients of zakat.

Third Case Study: Equal Inheritance Between Males and Females

Issued Fatwa: It is permissible in the West to divide inheritance equally between men and women.

Source: "Minority Jurisprudence Symposium," Paris 2019, sponsored by the Union of Islamic Organizations in France (UOIF):

"If the Islamic rule of giving the male double the female share causes family discord or damages Islam's image, then equal division is permissible."

Contradiction with Shar'ī Texts:

- Qur'an: "Allah instructs you concerning your children: for the male, the share of two females." (Al-Nisā' 4:11)
- Scholarly Consensus: Changing the shares of inheritance is among the gravest major sins. *(Al-Nawawī, Al-Majmūʿ, 16/34)*

Mechanism of Distortion: Treating "social interest" (avoiding criticism from the West) as a valid basis for nullifying an explicit Qur'anic ruling.

Fourth Case Study: Endorsing Same-Sex Marriage Ceremonies

Issued Fatwa: A Muslim imam may participate in same-sex wedding ceremonies in Western churches.

Source: Islamic Society of North America (ISNA), Workshop 2022:

"If a same-sex couple invites a Muslim imam to offer a duʿāʾ at their wedding, there is no Sharʻī objection, as it supports their Islamic identity."

Contradiction with Sharʻī Texts:

- Qur'an: "Do you approach such immoral practices no one in the worlds has ever done before you?" (Al-Aʿrāf 7:80)
- Hadith: "Allah has cursed the one who imitates the people of Lūṭ." *(Sahih al-Tirmidhī)*

Mechanism of Distortion: Using "cultural proximity" as a pretext to normalize grave sins.

Fifth Case Study: Donating to Institutions Contrary to Sharia

Issued Fatwa: Muslims may donate to churches or organizations that support homosexuality.

Source: Collective Fatwa Center in Canada (2017):

"Donating to churches that offer social services to Muslims (e.g., feeding the poor) is permissible, even if those churches practice disbelief or promote homosexuality."

Contradiction with Sharʻī Texts:

- Qur'an: "Do not cooperate in sin and transgression." (Al-Mā'idah 5:2)
- Hadith: "Whoever imitates a people is one of them." *(Sahih Abū Dāwūd)*

Mechanism of Distortion: Reducing "public interest" to material benefit while disregarding the protection of faith.

Sixth Case Study: Voting in Hijab/Burqa Polls

Issued Fatwa: It is permissible to vote in Western online forums to support Islamic symbols such as hijab.

Source: Islamweb.net (fatwa by a senior scholar):

"Voting in favor of Islamic practices in public forums strengthens the collective interest of the Muslim community."

Flaw: This is a "rational interest" constructed without any Shar'ī text. It is a speculative benefit rather than one rooted in revelation.

Seventh Case Study: "Shari'ah-Compliant" Swimwear (Burkini)

Issued Fatwa: If the swimwear fully covers the awrah and meets modesty standards, it is permissible due to health benefits.

Source: Egyptian Fatwa Authority (Dr. Mahmoud Shalabi), supported by various websites.

Flaw in Methodology: No explicit Shar'ī text permits the burkini. The ruling is extrapolated through assumptions about health and modesty, without definitive evidence.

Eighth Case Study: Permitting Muslim Women to Marry Non-Muslim Men

Shar'ī Ruling: Explicit prohibition in the Qur'an:

- "Do not marry polytheistic men until they believe..." (Al-Baqarah 2:221)
- "If you ascertain that they are believers, do not return them to the disbelievers; they are not lawful for them." (Al-Mumtaḥanah 60:10)
- Scholarly consensus affirms the prohibition.

Contradictory Fatwa: ECFR Decision 4/19 (2003) allowed Muslim women in the West to marry non-Muslim (Christian) men via civil contract, as long as:

- The marriage remains civil, not religious.
- The woman retains the right to practice Islam and raise children as Muslims.

Justifications Based on Maslahah:

- Integration into Western society.
- Difficulty finding suitable Muslim spouses, leading to risks of fornication or apostasy.
- Civil marriage seen as devoid of Shar'ī consequences.

Critique:

- Contradicts definitive texts and consensus.
- Mislabels mere difficulty as necessity.
- Creates an unfounded distinction between civil and religious marriage.
- Inverts the Quranic permission for Muslim men to marry People of the Book.

Issuing Authority: ECFR under Yusuf al-Qaradawi.

Ninth Case Study: Resorting to Secular Courts for Marital Disputes

Shar'ī Ruling: Mandatory arbitration through Islamic law.

- Qur'an: "They do not truly believe until they make you judge in their disputes..." (Al-Nisā' 4:65)
- "They wish to refer to the judgment of ṭāghūt (false authorities)..." (Al-Nisā' 4:60)
- Scholarly consensus prohibits referring disputes to secular law in opposition to Shar'ī rulings.

Minority Jurisprudence Position:

- Some fatwas explicitly or implicitly endorse resorting to secular courts in the West for all marital disputes.
- Little effort is made to establish Islamic arbitration mechanisms.

Justifications:

- Legal dominance of secular systems.
- Protecting vulnerable spouses (typically women).
- Avoiding societal conflict and seeking stability.

Critique:

- Violates the foundational doctrine of exclusive Shar'ī authority.
- Prioritizes material benefit over religious integrity.
- Accepts the status quo instead of striving for Shar'ī alternatives.
- Empties Islamic contracts of meaning when dispute resolution is outsourced to non-Shar'ī law.

Issuing Entities: This trend appears across fatwas and advisory literature from Western-based Islamic councils and imams who prioritize "coexistence" and "realism." While often implicit, it is a prevalent and tolerated practice.

Tenth Case Study: Participation in Western Elections and Voting for Secular Ruling Parties

Issued Fatwa: Sheikh al-Rifa'i on Islamway.net ruled:

"It is permissible to vote and run for office in non-Islamic systems if a significant Shar'ī interest is achieved, such as reducing oppression or supporting justice." *(Sources: Islamway.net, Islamweb.net)*

Justification: Applied the principle of achieving Shar'ī interest through political engagement.

Foundational Response

1. Legislative Authority Belongs to Allah Alone

- Qur'an: "Legislation is only for Allah." (Yusuf 12:40); "Whoever does not judge by what Allah has revealed, they are the disbelievers." (Al-Mā'idah 5:44)
- Meaning: The act of creating law (*ḥukm*)—determining what is halal and haram—is a divine prerogative. In Western democracies, however, constitutional law grants legislative authority to parliaments, where the legitimacy of laws is derived from the people's will via elections. When a citizen votes, they are granting the candidate the constitutional authority to legislate on their behalf. This act is not mere political representation; it is a delegation of the right to legislate—which the Qur'an attributes solely to God.
- This is the very interpretation found in the hadith about the People of the Book: "They took their rabbis and monks as lords besides Allah…" (Al-Tawbah 9:31). When 'Adiyy ibn Ḥātim objected, the Prophet ﷺ explained: "Did they not make what is forbidden permissible, and what is permissible forbidden, and you obeyed them?" He said, "Yes." The Prophet ﷺ replied, "That was your worship of them." *(Tirmidhī, ḥasan)*

Thus, granting legislative authority to humans—even without rituals—is a form of deification. Voting in such systems, even with the intention of reform, implies consent to a system where legislation belongs to man, not God—making it a practical form of shirk (association with Allah) in the domain of sovereignty.

2. Voting Enables Rule by Non-Shar'ī Law

- Qur'an: "Whoever does not judge by what Allah has revealed—they are the disbelievers / wrongdoers / defiantly disobedient." (Al-Mā'idah 5:44–47)
- More strongly: "Do you not see those who claim to believe... yet wish to seek judgment from ṭāghūt (false authorities)...?" (Al-Nisā' 4:60)
- Meaning: Even the desire to refer disputes to ṭāghūt (anything other than divine law) nullifies the claim to faith. How then can one knowingly authorize a lawmaker to legislate contrary to revelation?

- Further: “Do they seek the judgment of ignorance? Who is better in judgment than Allah?” (Al-Mā’idah 5:50)
- “He associates none in His legislation.” (Al-Kahf 18:26)
- Voting for a legislator in a secular system implies that humans may share in divine lawmaking—a form of shirk in legislation.

3. Cooperation in Sin and Legislating Evil

- Qur’an: “Do not cooperate in sin and transgression.” (Al-Mā’idah 5:2)
- Parliamentary participation entails electing individuals who legalize fornication, usury, and other prohibited acts under civil law—thus becoming a partner in sin.

4. Lawmaking Is a Divine Right

- Qur’an: “Or do they have partners who have legislated for them in religion what Allah has not permitted?” (Al-Shūrā 42:21)
- Voting in such systems or supporting those who do it constitutes participation in this forbidden act.

5. Holding Office in a Non-Islamic Legislative System Is Invalid

- Hadith: “Whoever introduces into this matter of ours something that is not from it—it is rejected.” *(Bukhārī, Muslim)*
- Hadith: “No obedience to any created being in disobedience to the Creator.”
- Political engagement in a man-made legislative framework is not a legitimate Islamic action.

Sixth Argument: Testimonies from Scholars Prohibiting Participation

- **Sheikh Bakr Abu Zayd** (*Hukm al-Intimā’*): Prohibited participation in democratic systems as it implies consent to ruling by other than Allah’s law.
- **Sheikh Ibn Bāz and Ibn ‘Uthaymīn:** Both rejected elections in systems of secular legislation.
- **Sheikh Abu Ishāq al-Ḥuwaynī (Egypt):** “Democracy makes the lawful what parliament permits, and the unlawful what it prohibits—this is explicit disbelief.”
- **Sheikh ‘Abd al-Salām Yāsīn (Morocco):** In *al-Minhāj al-Nabawī*, declared participation in legislative institutions is implicit acceptance of their un-Islamic foundations.
- **Sheikh ‘Umar Fallāta (Tunisia):** Fatwas declared that elections in man-made legal systems fall under *ḥukm bi-ghayr mā anzal Allah*.

- **Sheikh Muhammad Ahmad Ḥusayn (Mufti of Jerusalem):** Confirmed that any system where people replace divine revelation with popular sovereignty is *ṭāghūt*, and participation is forbidden.
- **Sheikh ʻAbd al-Qādir ʻAwdah (Egypt):** In *Islamic Criminal Legislation*, stated lawmaking is solely Allah's right, and human interference is a dangerous breach.
- **Sheikh al-Bashīr al-Ibrāhīmī (Algeria):** "To accept rule not based on the Qur'an and Sunnah is to abandon loyalty to God and accept ṭāghūt."
- **Sheikh Saʻīd Ḥawwā (Syria):** In *Jund Allah Thaqāfah wa Akhlāqan*, denounced democracy as incompatible with Islam's premise that sovereignty belongs to Allah alone.

Seventh Argument: Necessity Cannot Justify Foundational Prohibitions

- Qur'an: "Whoever is forced [by necessity], not intending transgression, incurs no sin." (Al-Baqarah 2:173)
- This applies to physical necessity (food, drink)—not ideological participation in systems of ṭāghūt.
- Imam al-Shāṭibī: "Necessities permit the forbidden only to the extent required." "The exception must not become the rule."

Jurisprudential Conclusion: Participation in parliamentary elections within systems that assign legislative authority to human beings is a form of engaging in *ḥukm al-ṭāghūt*. It involves affirming and empowering a legal order that claims to replace divine revelation with popular will. This contradicts the essence of faith (*īmān*), and depending on belief and intention, may constitute *shirk akbar* (major idolatry). The believer is commanded to disbelieve in ṭāghūt: "Whoever disbelieves in ṭāghūt and believes in Allah has grasped the firmest handhold..." (Al-Baqarah 2:256).

Seventh Argument: Muslims Have No Real Political Influence in the West

- Muslims in Western countries lack meaningful political weight—not only Muslims, but all identity groups. The liberal system is designed to fragment society into minorities (whites, women, LGBTQ+, racial minorities, Muslims, Christians, etc.), none of whom wield real legislative influence. Actual power remains with political parties and elite capitalist circles that control media and authority. The idea that Muslims can achieve political leverage through the ballot box is an illusion inconsistent with how Western societies are structured.
- Muslim participation is often used to legitimize the system and promote cultural assimilation, not to support Islam.
- Political parties prevent Muslims from voting according to their religious principles and require adherence to party platforms that often contradict Sharīʻah.

Conclusion

Participation in Western elections—whether by running for office or casting a vote—is not consistent with Sharʿī guidelines. It:

- Clearly violates the Qur'an and Sunnah.
- Contradicts the positions of trusted early and contemporary scholars.
- Enables evil and facilitates the alteration of religious principles.
- Is based on speculative rational interests that do not justify what Allah has forbidden.

It is incumbent upon the Muslim to remain steadfast in their faith, to distance themselves from falsehood and its people, and not to be deceived by hollow political slogans. The revealed texts of Islam are comprehensive, sufficient, and provide full guidance—free of the need for such illegitimate forms of political participation.

Response to the Claim that Prophet Yusuf (Joseph) Ruled by Non-Divine Law

Some advocates for participating in non-Islamic political systems cite the verse in which Yusuf عليه السلام says: *"Appoint me over the storehouses of the land; indeed, I am trustworthy and knowledgeable"* (Yusuf 12:55). They interpret this as evidence that Yusuf held a governmental position within a non-Islamic (pagan) system—therefore, justifying participation in secular systems. They also point to the verse: *"He could not have taken his brother under the king's law unless Allah willed it"* (Yusuf 12:76), interpreting it to mean that Yusuf operated under the king's law, not divine law.

They argue further: there is no scriptural restriction on applying this example to others, and since prophetic stories are for emulation, Yusuf's case supports the permissibility of such political involvement. They add: ruling by other than what Allah revealed is a fundamental principle that applies across all revelations—and Yusuf, while affirming *"Judgment belongs only to Allah"* (Yusuf 12:40), still took office!

Detailed Refutation:

1. Yusuf was a Prophet Sent with Divine Law Whose Mission Was to Rule by It

- Qur'an: *"Mankind was one community; then Allah sent the prophets as bringers of good tidings and warners and sent with them the Scripture in truth to judge between the people concerning that in which they differed."* (Al-Baqarah 2:213)
- *"We sent Our messengers with clear proofs and sent down with them the Scripture and the balance that the people may maintain justice."* (Al-Ḥadīd 57:25)
- The phrases *"to judge"* and *"that people may maintain justice"* indicate that one of the principal purposes of prophethood is the implementation of divine justice through revealed law.

- It is inconceivable that Allah would appoint a prophet and then allow him to legislate or enforce man-made law—contrary to divine legislation—without rebuke or correction.
- Yusuf was a divinely guided, infallible prophet. Any interpretation that contradicts this infallibility must be rejected.
- Even if his law differed slightly from Islamic law, it would have been rooted in revelation. The general principle that prophets must govern by divine guidance rules out the possibility that Yusuf governed by non-divine law.

2. Yusuf Affirmed the Principle of Divine Sovereignty

- Qur'an: *"Judgment belongs only to Allah. He has commanded that you worship none but Him. That is the correct religion, but most people do not know."* (Yusuf 12:40)
- It would be illogical for Yusuf to affirm divine sovereignty and simultaneously apply laws made by men. Just as Prophet Shuʿayb said: *"I do not intend to differ from you in that which I have forbidden you. I only desire reform as much as I am able."* (Hūd 11:88)

3. Yusuf Was Granted Authority and Sovereignty

- Qur'an: *"Thus We established Yusuf in the land, to settle therein wherever he willed."* (Yusuf 12:56)
- This confirms full empowerment and freedom in governance. He was not coerced into applying the king's law but had complete authority to apply divine law.

4. Yusuf Applied the Law of Ya'qub (Jacob) in the Legal Case

- Qur'an: *"He could not have taken his brother under the king's law unless Allah willed it."* (Yusuf 12:76)
- The king's law forbade enslaving a thief. Yusuf instead had his brothers propose a ruling derived from the divine law of Yaʿqub: *"Whoever's bag it is found in—he himself will be the penalty."* This is the only legal case explicitly described in the narrative, and Yusuf applied divine law—*not* the king's law.

5. Gradual Transition in Titles: From "Aziz" to "King"

- Initially, Yusuf is referred to as *"Aziz"* (chief minister). Later, after reuniting with his family and ascending authority, he refers to himself as having received *"al-mulk"* (kingship): *"My Lord, You have given me authority (mulk)…"* (Yusuf 12:101).
- This suggests that Yusuf ultimately attained full sovereignty or a level of delegated power equivalent to it.

6. Logical Incoherence in the Argument for Secular Participation

- Is it reasonable that Allah would send a prophet, empower him, then allow him to rule by man-made law without correction?

- On the contrary, Allah praises Yusuf and refers to him as among the chosen: *"Indeed, he was of Our chosen servants."*
- This invalidates the argument that Yusuf governed under a system of disbelief or enforced its laws.

7. Yusuf Did Not Apply the King's Law—He Overrode It

- In the one documented legal case, Yusuf bypassed Egyptian law to apply divine law.
- Qur'anic verses show Yusuf was not a subordinate official but a sovereign authority:
    - *"The king said: 'Bring him to me; I will appoint him exclusively for myself.' Then he said: 'Indeed, today you are established in position and trusted.'"*
    - *"Thus We established Yusuf in the land…"*
    - *"He could settle wherever he willed…"*
    - *"My Lord, You have given me authority…"*

8. False Analogy Between Yusuf and Modern Secular Parliaments

- Yusuf was not a coerced subordinate—he was empowered.
- Yusuf did not operate under a constitutional framework, but under divine revelation.
- Yusuf governed by God's law; parliaments legislate contrary to it.
- Ancient Egypt did not have constitutions or legislative assemblies. Laws were decreed by rulers based on political and moral discretion—not via democratic process or legal systems.
- The term "king" in Yusuf's time contrasts with "Pharaoh" in Moses' story. The former reflects a form of monarchy that did not deify rulers in the same manner.
- Ancient rulership was centralized and executive in nature, not codified by statute or civil codes. Therefore, when the king appointed Yusuf as chief over grain storage, he gave him operational autonomy. Yusuf could override existing customs—as seen in his legal decision.

Conclusion: The story of Prophet Yusuf عليه السلام shows that he was fully empowered to govern, applied divine law, and was not part of a man-made legislative system. The governance in ancient Egypt was administrative, not legislative in the modern sense. Yusuf's actions, praised by Allah, demonstrate adherence to divine instruction, not compromise with polytheistic law. Therefore, invoking his story to justify participation in secular parliaments or governance by non-Shar'ī law is a grave misapplication and a distortion of the story's true meaning.

The entire narrative served to comfort and assure the Prophet Muhammad ﷺ during the year of sorrow—showing that steadfastness in truth and reliance on divine guidance will ultimately lead to empowerment, just as it did for Yusuf. Any attempt to extract justification for secular participation from this story runs counter to its very purpose.

Refuting the Claim That the Prophet ﷺ Approved of Najāshī Ruling by Non-Islamic Law

This section is adapted from the profound work *Ad-Da'wah ilā al-Islām* by Ustadh Ahmad al-Mahmoud:

Anyone who sincerely carries Islam and works earnestly to reestablish it in governance and life—whether as an individual or a collective—cannot, in good conscience, participate in ruling by disbelief (ḥukm al-kufr), while simultaneously claiming to work toward its eradication. To partake in the ruling systems of kufr, which enforce non-Islamic laws, is in fact a reinforcement of those very systems—not their destruction. Any justification offered for such participation is nothing but self-deception before it is a deception of Allah and the believers, especially when that justification directly contradicts unequivocal, definitive legal texts (qaṭ'iyy ath-thubūt, qaṭ'iyy ad-dalālah).

It is a grievous sin for the carrier of the Islamic call to adopt a perceived "maslaḥah" (interest) not acknowledged by Sharī'ah, and use it as a pretext to violate a clear-cut textual command. Worse still is when such a person resorts to mere conjecture masquerading as evidence to justify engaging in systems that rule by laws other than what Allah has revealed.

One of the frequently misused proofs by proponents of such participation is the story of Najāshī—the king of Abyssinia (al-Ḥabashah)—whom the Prophet ﷺ announced had passed away, and for whom he performed the absent funeral prayer (ṣalāt al-ghā'ib). The argument goes: since Najāshī accepted Islam during the Prophet's ﷺ lifetime yet continued to rule by a non-Islamic system, it must be permissible for Muslims to partake in non-Islamic governance. This claim is severely flawed for the following reasons:

1. **Context of the Aḥādīth**: Al-Bukhārī titled five of the six aḥādīth he narrated under "The Death of Najāshī," and the sixth under "Funerals." These reports focus exclusively on the Prophet ﷺ informing the Companions of Najāshī's death, praising his righteousness, asking them to pray for him, and leading his funeral prayer—none of which prove he ruled by Islam or that such rulership is permissible.

2. **Commentary by Ibn Ḥajar**: In *Fatḥ al-Bārī*, Ibn Ḥajar notes that al-Bukhārī did not entitle the chapter as "Islam of Najāshī," implying that the details of his conversion were not established sufficiently to make that the focal point.

3. **Wording of the Ḥadīth**: The Prophet ﷺ says: "Today a righteous man has died—stand and pray for your brother Ashamah." This indicates the Prophet ﷺ only learned of his Islam and death via revelation at the moment of death. The companions were unaware of his Islam, implying it had remained a private matter.

4. **Timing of His Islam**: These narrations do not clarify when Najāshī embraced Islam. All signs suggest it occurred shortly before his death, unknown to the Prophet ﷺ until revealed by Allah, meaning he had little opportunity to learn and apply Islamic law.

5. **Who Was This Najāshī?**: "Najāshī" is a title—not a personal name—used for all Abyssinian rulers. The Najāshī the Prophet ﷺ corresponded with in his letter (sent after 6 AH) may not be the same

man the Prophet ﷺ prayed over. Historical and ḥadīth evidence suggest these were distinct individuals.

6. **Supporting Evidence**: In *Ṣaḥīḥ Muslim*, it's reported that the Najāshī the Prophet ﷺ prayed over was not the one he wrote to inviting to Islam. Similarly, Umm Salamah (ra), who lived in Abyssinia, made no mention of Najāshī converting, and described his treatment of Muslims without stating he had accepted Islam.

7. **Weak Historical Reports**: Some texts, such as those compiled by Ḥamīdullah in *al-Wathā'iq as-Siyāsiyyah*, claim that Najāshī wrote to the Prophet ﷺ declaring his Islam. However, these are not found in the authentic ḥadīth collections and contradict stronger evidence.

8. **Not the same Najāshī:** The twelfth section of **Sahih Muslim** with al-Nawawi's commentary states that the Negus (al-Najāshī) to whom the Prophet ﷺ sent a letter inviting him to Islam near the end of the sixth year after Hijrah—following the Prophet's return from the Treaty of al-Ḥudaybiyyah—**is not the same Negus upon whom the Prophet ﷺ later performed the funeral prayer in absentia (ṣalāt al-ghā'ib)**. The wording of the hadith narrated by Muslim is:

   "...from Anas, that the Prophet ﷺ wrote to Khosrow, Caesar, the Negus, and every tyrant inviting them to Allah the Exalted. **And this was not the Negus upon whom the Prophet ﷺ performed the funeral prayer**."

   This hadith clarifies that the Negus for whom the Prophet ﷺ offered funeral prayer is not the one to whom the early Muslims migrated when they fled to Abyssinia, nor is he the same Negus who received the Prophet's letter—sent with ʿAmr ibn Umayyah al-Ḍamrī—in the latter part of the sixth year, inviting him to Islam.

   Rather, the Negus whom the Prophet ﷺ prayed for had assumed kingship after the death of the Negus who received the Prophet's letter. That earlier Negus did not respond to the Prophet's invitation and did not accept Islam—because if he had accepted the invitation, the Prophet ﷺ would have informed the Companions of it and would have performed the funeral prayer for him. Moreover, Jaʿfar ibn Abī Ṭālib and the other emigrants residing in Abyssinia would have known of his conversion, since they returned to the Prophet ﷺ in the seventh year after the conquest of Khaybar, which was after the letter had been sent to the Negus.

   Had that Negus embraced Islam, his conversion would have had significant resonance and brought joy to the Muslims—especially since it would have coincided with the victory at Khaybar. The Prophet ﷺ would have rejoiced in it and conveyed the glad tidings to his companions. But upon Jaʿfar's return, the Prophet ﷺ merely said:

   "I do not know which gives me more joy: the conquest of Khaybar, or the arrival of Jaʿfar." (Sīrat Ibn Hishām)

Had the Negus embraced Islam, the Prophet ﷺ would likely have added, "Or the Islam of the Negus". Yet the Prophet ﷺ made no mention of the Negus in this context—despite the fact that the moment would have warranted it if the Negus had responded to the invitation and embraced **Islam**.

9. This Negus who embraced Islam had assumed kingship in the seventh year after the Hijrah, for the Prophet ﷺ had dispatched his envoys to kings and rulers—including the Negus—upon his return from the expedition of al-Ḥudaybiyyah, which took place in Dhu al-Qaʿdah, at the end of the sixth year. It follows, then, that the previous Negus died in the seventh year, and that the Negus who embraced Islam—and for whom the Prophet ﷺ offered the funeral prayer in absentia—came to power that same year. His death occurred **before the conquest of Mecca**, in the eighth year of the Hijrah, as stated by al-Bayhaqī in Dalā'il al-Nubuwwah.

   This means **that the interval between his assumption of power, his acceptance of Islam, and his death was quite short.** During that brief period, he embraced Islam in secret, and no one was aware of his conversion—not even the Prophet ﷺ. The Prophet was only informed of his death and his Islam through divine revelation on the day of his death, as indicated by the wording of the six hadiths recorded by al-Bukhārī regarding his passing.

   Because of the short time he lived as a Muslim before dying, he had no opportunity to learn the rulings of Islam. And the Prophet's ﷺ unawareness of his conversion meant he did not send him any instructions regarding what he should observe or implement.

   Thus, this case cannot serve as evidence for anyone who permits himself to participate in a system of disbelieving governance that rules by other than what Allah has revealed. Any claim to the contrary is invalid and refuted.

Conclusion

From all the above, it is clear that:

- The Najāshī who accepted Islam and was prayed over by the Prophet ﷺ is not definitively proven to be the same ruler to whom the Muslims first migrated, or to whom the Prophet ﷺ sent his letter.
- The Islam of Najāshī likely occurred privately and late in his life.
- He did not have time, ability, or perhaps even awareness to implement Islamic rule.
- The Prophet ﷺ did not approve of ruling by other than Allah's law—his silence on Najāshī's Islam until after his death is not an endorsement of his governance.

Thus, this cannot serve as valid evidence for participating in modern-day regimes that legislate in opposition to Islamic law. Any such claim is invalidated by authentic textual and historical evidence.

A Comprehensive Study on the Juristic Principle of "The Lesser of Two Evils" or "The Lesser of Two Harms"

Foundational Introduction: The principle of "the lesser of two evils" or "the lesser of two harms" is among the well-known legal maxims frequently cited by jurists. However, it must be precisely understood within the confines of its strict Sharia-based regulations and not misused as a blanket justification for deviations or political participation in systems of disbelief, as some modern Islamic movements have done. This study explores the origin of the principle, the conditions for its application, the supporting evidence, and examples from foundational juristic texts such as those of al-Ghazali and Izz al-Din ibn Abd al-Salam. It also critiques the contemporary misapplication of the principle and refutes its wrongful use.

First: Definition of the Principle and Its Juristic Scope

- **The Principle:** If a morally responsible person (mukallaf) is compelled to commit one of two prohibitions (i.e., cannot avoid both), then he must choose the one that is less harmful.
- **Its Origin in the Qur'an:**
    - "Allah does not burden a soul beyond its capacity" (al-Baqarah: 286)
    - "So fear Allah as much as you are able" (al-Taghabun: 16)
- **Core Condition:** It must be genuinely impossible to abstain from both prohibited actions, and the mukallaf must inevitably fall into one of them.

Second: Juristic Conditions Governing the Principle

1. **Impossibility of Avoiding Both Harms:** It must be impossible for the individual to avoid both forbidden acts.
2. **Determination of the Lesser Harm Must Be Sharia-Based:** The evaluation must be grounded in revealed law (Sharia), not based on mere whims or utilitarian reasoning.
3. **The Individual Must Be Powerless to Avoid Both Except Through a Greater Harm:** He must be unable to avoid both without incurring a more severe consequence.

Documenting the Conditions for Applying the Principle:

First: Jurists' Statements Affirming the Condition

- **Hanafi School:** Ibn Nujaym in *al-Ashbah wa al-Naza'ir* (p. 96): "When two evils conflict, the greater one is avoided by committing the lesser—if there is no alternative but to commit one."
    - Al-Zayla'i in *Tabyin al-Haqa'iq* (6/22) quoting al-Kasani: "The lesser harm is committed in cases of necessity, when both cannot be avoided."
- **Maliki School:** Al-Qarafi in *al-Furuq* (4/204): "If a person is forced into one of two prohibitions and cannot avoid both, he must commit the one with lesser harm."

- Al-Mawwaq in *al-Taj wa al-Iklil* (8/218): "Committing the lesser of two harms is permissible in necessity, provided both cannot be avoided."

- **Shafi'i School:** Al-Ghazali in *al-Mustasfa* (1/286): "When two evils conflict and one must be committed, then the lesser is committed."
    - Al-Suyuti in *al-Ashbah wa al-Naza'ir* (p. 117): "If two evils occur together and both cannot be avoided, then the lesser is committed."

- **Hanbali School:** Ibn al-Qayyim in *I'lam al-Muwaqqi'in* (3/14): "The Sharia mandates committing the lesser harm when one of two must be chosen and the greater must be avoided."
    - Al-Buhuti in *Kashshaf al-Qina'* (6/298): "If one is compelled to commit one of two evils and cannot avoid both, he commits the lesser."

Second: Scholars' Explanations of the Condition

- **Meaning of 'Necessity':**
    - Ibn Abidin in his *Hashiyah* (5/45): "Necessity means fear of perishing or losing a body part if the prohibition is not violated."

- **Condition of 'No Exit':** Al-Qarafi in *Anwar al-Buruq* (4/200): "Committing the lesser of two harms is not permissible unless avoiding both is impossible. If both can be avoided, neither should be committed."

- **Verification by Ibn Taymiyyah:** In *Majmu' al-Fatawa* (20/58): "When compelled to commit prohibited acts, the concession applies only to what is absolutely necessary. If one can avoid both, he must do so."

Third: Juristic Applications Clarifying the Condition

Case	**Reason**	**Applicable?**
Theft under armed threat	Cannot avoid death or theft	Yes
Participation in a disbelieving government	Can abstain without harm	No
Eating dead meat in the desert	Only options are death or eating carrion	Yes

Conclusion: The foundational condition—as affirmed by the majority of jurists—is:

"That the legally responsible person (mukallaf) is inevitably compelled to commit one of the prohibited actions, with no ability to avoid both."

This rests on key legal maxims:

1. **Necessities permit the prohibited (to the extent of the necessity).**
2. **Harm is not removed by equal or greater harm.**
3. **Greater harm is removed by lesser harm (only under necessity).**

Third: Valid Examples from Juristic Texts

1. **Difficult Childbirth:** If the life of the mother or fetus is at risk and one must be sacrificed to save the other, the lesser harm—such as saving the mother—is chosen, as noted by scholars.
2. **Murder under Coercion:** Izz al-Din ibn Abd al-Salam stated: "If a person is coerced into killing another Muslim, he must rather suffer death himself, for killing oneself is a lesser harm than unjustly killing another."
3. **Preventing Evil That Causes Missing an Obligation:** If preventing murder or adultery is only possible by missing an obligatory prayer, then preventing the evil takes precedence, as it holds greater Sharia weight.

Fourth: Refuting the Political Misuse of the Principle

Invoking the Principle to Justify Participation in Disbelieving Governance:

- Some preachers today justify parliamentary elections, supporting secular governments or parties, or endorsing legislation contrary to Sharia by claiming to "prevent a greater harm."
- **Refutation:** This is invalid for two reasons:
    1. **Condition of Compulsion is Not Met:** A Muslim can abstain from voting or participating in disbelieving governance, and abstention is legally possible.
    2. **It is Forbidden to Delegate Legislative Authority to Anyone Who Rules by Other Than God's Revelation:** Parliamentary representation involves authorizing the legislator to enact laws—if this is granted religious legitimacy, it constitutes shirk (associating others with God in His legislative right).

3. The Problem of Legislative Delegation (Authorization)

- **Juristic Argument:**
    - Voting is an explicit authorization for the representative to legislate on behalf of the voter. This makes the voter a partner in every law passed by parliament, as stated in the verse: *"Or do they have partners who have legislated for them in religion that which Allah has not permitted?"* (al-Shura: 21).

- **Political Analysis:**
    - Parliamentary systems operate on the principle of a *general mandate*, which gives the elected member authority to vote on all matters during their term (4–5 years), not only those included in their campaign promises.
    - **Real-World Example:**
        - In 2003, 80% of Labour Party MPs in the UK—including Muslim MPs—voted in favor of the Iraq invasion, despite mass Muslim opposition.
        - In 2019, the British Parliament voted to legalize same-sex marriage, with support from parties that included Islamic movements.

4. The Illusion of Preventing Greater Harm

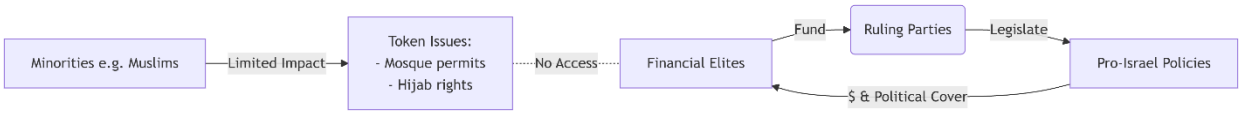
- **Debunking the "Preventing Homosexuality in Education" Argument:**
    - Even if a Muslim MP succeeded in removing a clause on homosexuality from a curriculum, this does **not** prevent:
        - The same education system from promoting Darwinism and secularism as absolute truths. In our book *The Origin of the Universe: A Rational, Scientific, and Empirical Proof of the Creator's Existence*, we addressed the issue of *"Exclusionary Secular Dictatorship and Intelligent Design"* by examining the case of Georgia, USA. There, church-supported communities fought to place stickers on biology textbooks stating that "evolution is a theory, not a fact," but a federal judge ruled in 2005 that such stickers were unconstitutional and ordered their removal.
        - In another 2005 case, the Dover School Board attempted to present "Intelligent Design" as an alternative to Darwinian evolution, offering a 60-second statement and library references. The court ruled this a violation of the First Amendment and banned it. These two cases demonstrate that educational agendas follow a strict secular doctrine that uses the separation of religion and state to silence any epistemic alternative—even if it is scientific—on the grounds of suspected religious association.
        - The eventual legalization of homosexuality in law (as seen in 35 Western countries since 2000).
        - The proliferation of moral decadence through media (e.g., Netflix, TikTok), which wields greater influence than schools.
    - **UNESCO 2021 Report:** "70% of Western social media content is inconsistent with conservative religious values."

- **Historical Irony:**
    - In France in 2013, political parties involving Muslims supported the same-sex marriage law under the pretext of "focusing on more important issues like Islamophobia"—yet both laws were enacted together!

The Deception of Minority Political Influence

- **Structural Analysis of Liberal Systems (Based on Robert Dahl's Theory of Elite Pluralism):**
    - The Western political system is governed by a "Triangle of Domination":

The Triangle of Hegemony in Western Politics



Arabic Term	English Translation	Expansion & Key Actors
أصحاب رأس المال	**Financial Elites**	• Hedge fund managers (e.g., BlackRock, Vanguard) • Tech oligarchs (e.g., Bezos, Musk, Zuckerberg) • Corporate lobbyists (e.g., PhRMA for Big Pharma, NRA for arms industry)
الأحزاب الحاكمة	**Ruling Political Parties**	• Establishment wings of major parties (e.g., GOP's McConnell faction, Democrats' Clintonite bloc) • Party whips enforcing donor-aligned voting • Bipartisan consensus on core policies (e.g., military spending, Israel support)
لوبيات الضغط الصهيوني	**Pro-Israel Lobbying Complex**	• AIPAC (American Israel Public Affairs Committee) • Democratic Majority for Israel (DMFI) • Republican Jewish Coalition (RJC) • CAMERA (media watchdog silencing Palestine criticism)

Mechanisms of Control

1. **Financial Pipeline**
    - Example: 91% of U.S. Senate elections (2020) were won by candidates with higher corporate funding (OpenSecrets data).
    - *"When Wall Street speaks, politicians kneel."* — Senator Bernie Sanders (2019)

2. **Party Discipline**
    - U.K. Conservative MPs voting against Israeli sanctions (2023) faced deselection threats from party whips.
3. **Lobby Enforcement**
    - AIPAC spent $34M in 2022 to defeat progressive critics of Israel (The Intercept).

Academic Validation

Concept	**Theorist/Study**	**Key Finding**
Plutocratic Entrenchment	Princeton Study (Gilens & Page, 2014)	"Economic elites dominate policy outcomes; average citizen's influence is near zero."
Iron Law of Oligarchy	Robert Michels (1911)	"All parties evolve into oligarchies controlled by elites."
Zionist Hegemony	Stephen Walt & John Mearsheimer (2007)	"U.S. Middle East policy driven by Israel lobby, not national interest."

Why Minorities Remain Marginalized

Reality Check:

- Muslim advocacy groups (e.g., CAIR) spend ~$3M/year on lobbying vs. AIPAC's $100M+ (FEC 2022).
- **Result**: 97% of U.S. Congress supports Israel unconditionally despite 72% Muslim voter opposition (Pew 2023).

Case Study: U.S. Congress Voting Patterns

Issue	Corporate/Pro-Israel Position	Progressive/Muslim Position	Outcome
Military aid to Israel	$3.8B/year unconditional	Ceasefire + conditions	98% approval
Student loan relief	Blocked	$10k+ debt cancellation	Blocked 5 times
Palestinian statehood	Opposed	Supported	0% success since 1948

Conclusion

This triangle operates as a **closed feedback loop**:

1. Elites fund campaigns → 2. Parties pass elite-friendly laws → 3. Lobbies protect the system. **Minorities are structurally excluded** from core power nodes – making "participation" in this system **a legitimization of hegemony**, not a path to change. As Noam Chomsky notes:

"The smart way to keep people passive is to strictly limit the spectrum of acceptable opinion, but allow lively debate within that spectrum."

Special Terminology

- **Plutocratic Entrenchment** = *الهيمنة البولغاركية* (i.e., rule of the wealthy)
- **Deselection threats** = *تهديدات بالإقصاء من المقعد الانتخابي*
- **Lobby Enforcement** = *فرض الضغط السياسي* (i.e., the operational mechanism of lobbying)

Harvard University Study (2020):

“The influence of the Zionist lobby on the U.S. Congress surpasses that of all other ethnic minorities combined by a factor of 12.”

A Stark Example

- In **2021**, **98% of the U.S. Congress** voted in favor of increasing military aid to Israel—despite **72% of Muslim voters opposing** their parties’ stances.

The Fallacy of Partial Gains vs. Strategic Losses

Case Study: The Palestinian Issue

Western political parties—even those deemed "moderate"—maintain fixed and unwavering positions on core issues:

- Military support for Israel.
- Framing Palestinian resistance as "terrorism."
- Pursuit of normalization with the Zionist entity.

Brookings Institute Study:

"86% of all U.S. congressional resolutions concerning Palestine since 1948 favored Israel—regardless of which party was in power."

The Mosque Licensing Deception

- In **Britain**, 40 mosques were shut down between **2001 and 2020** under the pretext of "countering extremism"—despite the presence of Muslim MPs in Parliament.
- **Civil rights are not attained** through legislative authorization, but rather through:
    - **The judiciary** (e.g., the hijab ban in France was contested in the European Court of Human Rights).
    - **Media pressure campaigns**.
    - **Popular grassroots mobilization**—none of which require parliamentary empowerment or representation.

Second: Fulfilling Detailed Demands

A. Weighing the Two Harms:

Governing by Disbelief vs. **Partial Gains**

Dimension	**Harm Resulting from Participation**	**Benefit of Non-Participation**
Religious Legitimacy	Delegating authority to legislate disbelief (a collective sin)	Avoiding legitimization of the secular system

Dimension	Harm Resulting from Participation	Benefit of Non-Participation
Political Impact	Strengthening the secular regime	Depriving the system of its "pluralistic" cover
Existential Issues	Endorsing decisions on war and normalization	Freedom from responsibility for the regime's crimes
Gains	Token achievements in secondary matters (e.g., licenses, temporary curriculum tweaks)	Upholding principled stance with mass popular respect

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Conclusion:

Temporary or superficial gains cannot offset **strategic losses**, especially on matters of existential weight (such as military aid to Israel), for which not only the Muslim MP is held accountable, but also **the voter who empowered them**.

B. The Deception of Electoral Platforms

Practical Reality:

Political parties routinely make critical decisions **without returning to their voters**, particularly in:

- **Foreign policy** (e.g., relations with Israel).
- **Moral legislation** (e.g., abortion, LGBTQ issues).

Examples:

- Canadian PM **Justin Trudeau** legalized **marijuana** in office, though it was **never mentioned** in his 2015 campaign platform.
- Spanish PM **Pedro Sánchez** legalized **euthanasia** in 2021 despite **70% of his voters opposing** the move.

C. The Myth of "Change from Within"

1. Max Weber's "Iron Cage" Theory:

Modern bureaucratic systems **compel entrants** to adopt the system's core values—even if they initially entered in opposition.

2. Cambridge University Study (2022):

"82% of Islamic political parties that participated in governance (e.g., in Turkey, Tunisia, Morocco, Kuwait) **abandoned over 60%** of their Islamic platform **under pressure from international institutions**."

3. The "Minimum Threshold of Acceptability" Rule:

To be recognized as a legitimate political actor within the system, a party must adopt liberal dogmas such as:

- **Absolute equality** (as opposed to gender or moral distinctions rooted in religion).
- **Unrestricted freedom of expression** (even when blasphemous).
- **Secularism** (separation of religion from state governance).

Strategic Approach for Confrontation for Muslims Living in the West

1. Global Strategic Objective: Re-Establishment of the Islamic Khilāfah

- **Support the intellectual and political work** for reviving the Islamic Caliphate in the Muslim world.
- This is the **ultimate solution** to all systemic problems facing Muslims—whether political, social, or economic—as it would restore the implementation of Islam comprehensively in governance, law, economy, and society.
- The **collapse of secularism's effects**—injustice, identity crises, social breakdown—will naturally follow the re-implementation of divine law.

2. Cultivating Deep Islamic Understanding in the West

- **Educate Muslims** on core Islamic beliefs, law, and political theory, especially the *invalidity of secularism*, the *concept of divine sovereignty (ḥākimiyyah)*, and the *obligation of implementing Islam comprehensively*.
- Reconnect Muslims with the classical tradition through **structured halaqat**, courses, and books covering:
    - Usul al-fiqh (Islamic legal theory)
    - Islamic worldview (tasawwur islami)
    - Islamic systems of governance, economy, and social life
    - Refutations of liberalism, nationalism, and modernist distortions

3. Preservation and Assertion of Islamic Identity

- Resist forced assimilation by **strengthening Islamic identity markers**:
    - Arabic language

    - Islamic dress
    - Distinct Islamic moral codes (ḥayā', gender interaction, family structure)
- Teach Muslim youth to **critically challenge secular-liberal norms**, including:
    - Individualism
    - Gender ideology
    - Moral relativism
- Promote pride in **Muslim civilization and history**—not as nostalgia, but as an intellectual and practical alternative to Western models.

4. Constructive Social Engagement Without Compromise

- **Engage positively in society**: contribute to public welfare (health, education, economy) in a manner that showcases Islamic ethics.
- **Avoid political entanglement** in secular legislative systems that legitimize kufr laws.
- Uphold Islamic ethics in interactions, volunteerism, and professional life without **diluting religious principles**.
- Advocate for Muslims' civil rights through **lawful and public means**—media, legal advocacy, petitions—without aligning with secular ideologies.

5. Intellectual Counter-Narrative and Da'wah

- Build a **coherent Islamic counter-narrative** that refutes:
    - Secular democracy
    - Feminism, LGBTQ+ normalization
    - Religious pluralism as theological relativism
- Train Muslim youth and activists to be **confident intellectual carriers of Islam**, capable of articulating:
    - Islam as a system (not just spirituality)
    - Islamic governance as a viable solution
    - The moral and spiritual bankruptcy of Western liberalism

6. Rejection of Integration Through Compromise

- Categorically reject participation in systems that:
    - Legislate contrary to Shariah

    - Demand moral compromise (e.g., interest-based economics)
    - Normalize secular definitions of “moderate Islam”
- Publicly **expose the contradiction** between Islamic beliefs and Western liberalism, including its use of “tolerance” as a tool to suppress religious truth.

7. Support for the Oppressed Muslim Ummah

- Build **moral, financial, and informational support** networks for oppressed Muslims globally:
    - Palestine, Uyghurs, Kashmir, Rohingya, etc.
- Raise awareness of **colonial legacies**, ongoing political subjugation, and how **Khilāfah is the only strategic solution**.
- Counter the narrative of “Islamic extremism” used to criminalize Islamic political identity.

A Decisive Jurisprudential Maxim: *“Harm cannot be removed by an equivalent or greater harm.” — Ibn al-Qayyim, Iʿlām al-Muwaqqiʿīn*

Political Recommendation

Emphasis must be placed on the **“power of rejection” (i.e., boycott)**—an effective strategy that compels regimes to concede, as seen in campaigns to boycott products that support Israel. This approach proves far more successful than participation, which is invariably marred by concessions.

This analysis thus shows that **participation in secular systems of governance is not “the lesser of two evils.”** Rather, it is a recurring evil—one that legitimizes disbelief and implicates the Muslim in the sin of legislating against divine law. And God knows best.

Contemporary Deviant Applications

1. Participation of Islamic Movements in Democratic Governance

Claim: Participation prevents the dominance of secularists.

- **Response:** Such participation constitutes **a legislative mandate**; mere entry into the system affirms and entrenches it—it is not a necessity.
- **Deconstructing the “Penetration” Argument:**
    - The democratic system is built on **“institutional equilibrium,”** meaning that participation within it signals recognition of its legitimacy, not resistance to it.

    - According to David Easton's theory of **Institutional Legitimacy**, "the participant in a system becomes a guardian of it, not a challenger."

- **Contemporary Example: Tunisia (2011–2021)**
    - Participation of *Ḥarakat al-Nahḍah* (The Ennahda Movement) in parliament did **not prevent the passage** of laws violating the Sharīʿah—such as equal inheritance and legalizing adoption by homosexuals.
- **Outcome:** The movement transformed from a "reformist movement" into a "supporter of the status quo," according to the International Institute for Strategic Studies (IISS, 2022).
- **New Jurisprudential Argument:**
    - Participation entails **swearing allegiance to a secular constitution**, which signifies a **shift in loyalty from divine law to man-made law**.

"And do not obey one whose heart We have made heedless of Our remembrance and who follows his own desires." (Sūrat al-Kahf, 18:28)

Permitting the Election of the "Lesser Evil" Secular Candidate

- **Response:** What is forbidden **cannot be represented**, nor granted legitimacy through voting.
- **Analysis of the Modern Social Contract:**
    - In a democratic system, voting is not merely the "selection of an individual," but **a delegation of authority to form the 'General Will'**, as per Rousseau.
    - This renders the voter **a co-author** of every law passed by parliament during its term.
    - Hence, the voter is also **responsible for the MP's crimes**, such as voting in support of Israel or pro-LGBTQ legislation, marijuana ...etc.
- **Unprecedented Empirical Evidence:**
    - **Yale University Study (2023)** across 100 countries found:

"Parliamentarians elected under claims of 'moderation' vote in favor of morally corrupt laws in 89% of cases, under pressure from their party blocs."

- **Jurisprudential Paradox:**
    - If two candidates exist—a disbeliever and a wicked transgressor—**abstaining from participation is the true "lesser evil,"** because:
        - Refusing to vote **undermines the legitimacy of the system**, as in Algeria's 2019 elections where turnout dropped to 40%.

- Participation incurs **two sins**: aiding in transgression **and** legitimizing the rule of laws other than what Allah has revealed.

Appointing Sharīʿah Judges Within Secular Systems

- **Response:** A judge in this context is **bound by secular law**, and thereby enforces disbelief. Muslims must not be deceived by claims of "harm reduction."
- **Exposing the Structural Illusion:**
  - The judge in secular systems is a prisoner of **procedural codes**, not religious edicts.
  - He is **obliged to prioritize the state constitution** over Sharīʿah law.
    - Example: Article 2 of the Egyptian Constitution states: *"The principles of Sharīʿah are a main source of legislation"*—i.e., not binding.
  - The judge is **prohibited from enforcing ḥudūd (Islamic penal codes)** such as apostasy or adultery, under the guise of "individual freedoms."
- **Court Structure Evidence:**
  - In **Malaysia's dual court system**:
    - Sharīʿah courts are restricted to **personal status issues** (marriage, divorce, inheritance).
    - They are barred from adjudicating **existential matters** (economics, politics, criminal law).
- **The New Moral Predicament:**
  - If the judge rules based on secular law:
    - In **homosexuality cases**: he recognizes its legitimacy.
    - In **usury cases**: he validates and enforces bank-based transactions.

This reveals that the claim of "reducing harm" is a mirage—it actually **multiplies the sin.**

Key Jurisprudential Alerts

- **The ability to abstain nullifies the necessity clause**:

  If a third, lawful path exists, it becomes obligatory; the excuse of "necessity" cannot be invoked lightly.

- **Invoking ease without detailed evidence** is simply **chasing dispensations without discipline**—a path scholars considered ruinous.
- **Maslahah (public interest) does not abrogate textual proofs**:
- It must be governed by what the Sharīʿah affirms. If it contradicts definitive evidence, it is dismissed.

A Comprehensive Conclusion

The principle of **"choosing the lesser of two evils"** is **not a blanket license** to bypass divine rulings, nor is it a legitimate justification to normalize what is categorically prohibited. It is a **precise and narrowly applicable principle**, bound by strict conditions, and only to be used in **genuine cases of necessity**—and only after exhausting all other legitimate Sharʿī alternatives.

To use it outside its context is to engage in **human legislation masquerading as Sharīʿah**, opening the door to base desires and blurring the line between ḥalāl and ḥarām.

Imām al-ʿIzz ibn ʿAbd al-Salām said: *"A harm is not removed by a greater harm unless it is absolutely unavoidable and its prevention takes precedence."*

Thus, the **greater harm** lies not in committing a wrong, but in **clothing that wrong in legitimacy**. Participation does not eliminate the evil—it rather **transforms it from an external imposition to an internalized, systemically legitimized choice**, and that is the greater calamity.

And God knows best. May peace and blessings be upon our Prophet Muhammad, and upon his family and companions.

Conclusion and Recommendations

Certain applications of "Fiqh al-Aqalliyyāt" (Minority Jurisprudence) have led to **dangerous methodological concessions** in established rulings, particularly regarding **marital law and engagement with secular systems**—under the pressures of modern reality and in the name of "public interest."

In practice, **maslahah** has been distorted from a **Sharʿī principle grounded in sound legal methodology** into a **rationalist utilitarianism**, tied to **Western norms and pressures**, resulting in:

- Contradicting **definitive textual proofs** and **scholarly consensus**.
- Undermining **foundational creedal tenets**, such as **ruling by divine law** and **loyalty and disavowal (al-walāʾ wa-l-barāʾ)**.
- Weakening moral sensitivity toward categorical prohibitions.
- Presenting a distorted image of Islam's "flexibility"—misconstrued as **limitless interpretability**.

The real challenge for **Fiqh al-Aqalliyyāt** is not in compromising legal foundations, but in **crafting innovative, Sharʿī-compliant solutions** within the framework of:

- **Definitive textual principles**
- **Disciplined legal reasoning (uṣūl al-fiqh)**

This demands:

1. **Unwavering commitment** to Sharʿī constants—no matter the pressure.
2. **Strict regulation** of the use of necessity, need, and maslahah—within the bounds of Islamic jurisprudence.
3. **Genuine efforts to develop viable Sharʿī alternatives**, such as:
    - Real Islamic financing solutions, not affiliated with the capitalist system.
    - Recognized Islamic arbitration tribunals.
    - Effective Islamic marriage initiatives.
4. A clear **distinction between lawful facilitation** of Islam's practice in the West and **compromising divine law** for comfort.
5. A **courageous internal critique** of the methodological deviations within minority jurisprudence institutions.

Fiqh al-Aqalliyyāt will **only fulfill its religious and societal purpose** if it remains anchored in **the certainties of revelation**, offering a coherent jurisprudential vision that merges **Sharʿī authenticity with practical realism**—not one where **rationalist utilitarianism erases immutable rulings.**

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🔍 High-Level Summary

This groundbreaking study provides a critical refutation of the ideological and jurisprudential basis of "Minority Jurisprudence" (*Fiqh al-Aqalliyyāt*), exposing its deviation from the core principles of Islamic legal theory (*uṣūl al-fiqh*). Rather than accommodating minority realities through legitimate scriptural frameworks, certain contemporary fatwas have manipulated Islamic rulings to align with secular norms, ultimately undermining divine law.

Key Themes:

- Clarifies the difference between **Sharʿī necessity** and **rationalist compromise**.
- Exposes misuse of legal tools like **maṣlaḥah**, **maqāṣid**, and **ḍarūrah**.
- Documents how permissive fatwas on **riba**, **inheritance**, **interfaith marriage**, and **Western elections** directly contradict the Qur'an and scholarly consensus.
- Critiques how "public interest" has been used to nullify categorical prohibitions.
- Reaffirms that divine legislation is not subject to human reinterpretation based on changing social pressures.

This is not a work of political rhetoric but of **methodological restoration**—calling scholars and da'wah activists to uphold the integrity of revelation against the tide of ideological dilution and compromise.

🖋️ About the Author

Thaer Ahmad Salameh is a writer and thinker deeply engaged in the revival of authentic Islamic methodology in theology, law, and civilizational thought. With a rigorous background in Islamic jurisprudence and epistemology, his works span topics ranging from the origins of the universe and life, to the critique of modernist trends in Islamic law and politics. Salameh emphasizes strict adherence to divine revelation as the foundation for both personal piety and societal reform.

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📚 Selected Works by the Author

1. **Epistemology and the Methodologies of Thinking**
2. **The Origin of the Universe: A Rational, Scientific, and Empirical Proof for the Existence of the Creator**
3. **The Origin of Life: A Rational, Scientific, and Empirical Proof for the Existence of the Creator**

4. **The Clear Proof: That the Sunnah is Preserved Revelation and a Foundation of Religion**
5. **The Miracle of Islamic Legislation: Its Unique Features and Foundations**
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10. **Proofs of Belief (Adillat al-I'tiqād)**
11. **Refutation of the Jurisprudence of Minorities and Clarifying Its Danger to Muslim Minorities**

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